

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

CARL MICHAEL BUTLER, JR.,

Plaintiff,

v.

ZACHARY JACOBSON, et al.,

Defendants.

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No. 4:17-cv-2285-JAR

MEMORANDUM AND ORDER

This matter is before the Court upon review of the file. Plaintiff, an inmate at the Washington County Jail, filed a complaint in this Court on August 21, 2017. He sought and was granted leave to proceed in forma pauperis. Upon initial review of the complaint, the Court noted that it failed to state a claim upon which relief could be granted against any of the named defendants, and was therefore subject to dismissal pursuant to 28 U.S.C. § 1915(e)(2)(B). In an Order dated November 15, 2017, the Court instructed plaintiff to file an amended complaint. When plaintiff failed to respond within the time permitted, the Court *sua sponte* gave him additional time to do so, and specifically cautioned him that his failure to timely respond would result in the dismissal of his case. Plaintiff's response was due to the Court on January 4, 2018. To date, however, he has neither complied with the Court's November 15, 2017 Order, nor sought additional time to do so.

Plaintiff was given meaningful notice of what was expected, and cautioned that his case would be dismissed if he failed to timely comply. Therefore, this action will be dismissed without prejudice due to plaintiff's failure to prosecute his case and his failure to comply with this Court's November 15, 2017 Order. Fed. R. Civ. P. 41(b); *see also Dudley v. Miles*, 597 F.


App'x 392 (8th Cir. 2015) (*per curiam*) (affirming dismissal without prejudice where pro se plaintiff failed to file an amended complaint despite being cautioned that dismissal could result from failure to do so); *Fitzwater v. Ray*, 352 F. App'x 125, 126 (8th Cir. 2009) (*per curiam*) (district court did not abuse its discretion in dismissing action without prejudice when the *pro se* plaintiffs failed to comply with an order "directing them to file within fourteen days an amended complaint in conformity with Rule 8"); *Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir. 1986) (a district court has the power to dismiss an action for the plaintiff's failure to comply with any court order).

Accordingly,

IT IS HEREBY ORDERED that the complaint is **DISMISSED** without prejudice. A separate order of dismissal will be entered herewith.

IT IS HEREBY CERTIFIED that an appeal from this dismissal would not be taken in good faith.

Dated this 11th day of January, 2018.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE